

Internal Revenue Service, Treasury

§ 1.1471-1, Nt.

§ 1.1464-1 Refunds or credits.

(a) *In general.* The refund or credit under chapter 65 of the Code of an overpayment of tax which has actually been withheld at the source under chapter 3 of the Code shall be made to the taxpayer from whose income the amount of such tax was in fact withheld. To the extent that the overpayment under chapter 3 was not in fact withheld at the source, but was paid, by the withholding agent the refund or credit under chapter 65 of the overpayment shall be made to the withholding agent. Thus, where a debtor corporation assumes liability pursuant to its tax-free covenant for the tax required to be withheld under chapter 3 upon interest and pays the tax in behalf of its bondholder, and it can be shown that the bondholder is not in fact liable for any tax, the overpayment of tax shall be credited or refunded to the withholding agent in accordance with chapter 65 since the tax was not actually deducted and withheld from the interest paid to the bondholder. In further illustration, where a withholding agent who is required by chapter 3 to withhold \$300 tax from rents paid to a non-resident alien individual mistakenly withholds \$320 and mistakenly pays \$350 as internal revenue tax, the amount of \$30 shall be credited or refunded to the withholding agent in accordance with chapter 65 and the amount of \$20 shall be credited or refunded in accordance with such chapter to the person from whose income such amount has been withheld. With respect to section 1446, this section shall only apply to a publicly traded partnership described in § 1.1446-4.

(b) *Tax repaid to payee.* For purposes of this section and § 1.6414-1, any amount of tax withheld under chapter 3 of the Code, which, pursuant to paragraph (a)(1) of § 1.1461-2, is repaid by the withholding agent to the person from whose income such amount was erroneously withheld shall be considered as tax which, within the meaning of sections 1464 and 6414, was not actually withheld by the withholding agent.

(c) *Effective/Applicability date.* The last sentence in paragraph (a) of this section shall apply to partnership tax-

able years beginning after April 29, 2008.

[T.D. 6922, 32 FR 8713, June 17, 1967, as amended by T.D. 8804, 63 FR 72188, Dec. 31, 1998; T.D. 9394, 73 FR 23085, Apr. 29, 2008; 74 FR 14932, Apr. 2, 2009]

RULES APPLICABLE TO RECOVERY OF EXCESSIVE PROFITS ON GOVERNMENT CONTRACTS

RECOVERY OF EXCESSIVE PROFITS ON GOVERNMENT CONTRACTS

§ 1.1471-1 Recovery of excessive profits on government contracts.

The inclusion of the statutory provisions of section 1471 in this part does not supersede the provisions of 26 CFR (1939) part 17 (Treasury Decision 4906) and 26 CFR (1939) part 16 (Treasury Decision 4909) as made applicable to section 1471 by Treasury Decision 6091 (19 FR 5167, C.B. 1954-2, 47).

[T.D. 6500, 25 FR 12081, Nov. 26, 1960]

EDITORIAL NOTE: For the convenience of the user, the text of parts 16 and 17 (not entirely superseded) of 26 CFR (1939) referred to above is set forth below:

PART 16—EXCESS PROFITS ON ARMY CONTRACTS FOR AIRCRAFT

REGULATIONS UNDER SECTION 14 OF THE ACT OF APRIL 3, 1939, AND OTHER PROVISIONS

AUTHORITY: Sections 16.1 to 16.18 issued under 52 Stat. 467; 26 U.S.C. 3791. Interpret or apply sec. 3, 48 Stat. 505, as amended, sec. 14, 53 Stat. 560; 34 U.S.C. 496, 10 U.S.C. 311, 312.2206

SOURCE: Sections 16.1 to 16.18 contained in T.D. 4909, 4 FR 2733, July 1, 1939, except as otherwise noted.

§ 16.1 *Definitions.* As used in the regulations in this part the term:

(a) “Act” means the act of April 3, 1939 (53 Stat. 560; 10 U.S.C. 311, 312, 34 U.S.C. 496), together with the applicable provisions of section 3 of the act of March 27, 1934, 48 Stat. 505; 34 U.S.C. 496, as amended by the act of June 25, 1936, 49 Stat. 1926; 34 U.S.C., Sup. IV, 496, and as further amended by the act of April 3, 1939 (53 Stat. 560; 34 U.S.C. 496).

(b) “Person” includes an individual, a corporation, a partnership, a trust or estate, a joint-stock company, an association, or a syndicate, group, pool, joint venture or other unincorporated organization or group, through or by means of which any business, financial operation or venture is carried on.

(c) “Contract” means an agreement made by authority of the Secretary of the Army for the construction or manufacture of any